

'Top Secret' Tag Routine, Jury Is Told

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LOS ANGELES, April 23—The man who classified the Pentagon Papers "top secret-sensitive" testified in federal court here today that he did so routinely and without regard to government rules and regulations concerning protection of the "national defense."

In fact, said Leslie H. Gelb, a former Pentagon official who directed the task force that compiled the papers, he was not even aware at the time of the existence of Executive Order 10501, the guideline issued by President Eisenhower in 1954 to govern security classification.

The only training or instruction he ever had in security matters, Gelb explained, was watching "a movie which had the theme, 'beware of blondes who are excessively friendly—they may be Russian spies.'"

Gelb said his criteria for giving the documents a "top secret" label were that some of the source documents were classified at that level and that "virtually everything" else he handled at the Pentagon had similar marking.

The word "sensitive" was added—despite the lack of any legal basis for it—because the documents were then regarded as "politically sensitive... they talked about and characterized the positions of

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high-level policymakers," he testified.

Some parts of the Defense Department history of American involvement in Southeast Asia were drawn from unclassified sources, Gelb acknowledged.

But "because of my failure to instruct the secretaries to the contrary, they just typed 'top secret-sensitive' on everything," without regard to its significance, he said.

Gelb, now a senior research fellow at the Brookings Institution in Washington, was brought to Los Angeles last week as a prosecution rebuttal witness in the Pentagon Papers trial of Daniel Ellsberg and Anthony J. Russo Jr., who are charged with conspiracy, espionage and theft of government property in connection with disclosure of the documents.

Last Friday, some of his testimony about Ellsberg's access to the Papers as a researcher at the Rand Corp. conflicted with what the defendant himself had said on the witness stand and out of court.

Today, however, Gelb was questioned by defense attorneys and immediately said some of the things that Ellsberg and Russo have been trying to get into the record since this trial began in January.

Among other things, he testified:

• That he was annoyed to learn that a set of the Pentagon Papers was put into the "top secret control system" on its arrival at Rand's headquarters in Santa Monica, Calif.

Ellsberg has testified, and the defense has otherwise maintained, that he docu-

ments were supposed to be kept out of the system and that was why he did not follow some of the usual regulations with regard to top-secret material.

• That there was no budget to cover the production of the Pentagon papers at the request of former Defense Secretary Robert S. McNamara, but rather that all of the personnel on loan to the task force were paid by the agencies for which they normally worked.

This is a crucial issue, because the government must establish that the Papers were worth more than \$100 in order to convict Ellsberg and Russo of felony theft charges.

Although it did not come out in court, Gelb made it clear to reporters that he distinctly disagrees with another major defense theory in the case—that the volumes of the Papers stored at Rand and available to Ellsberg were the "private property" of himself and two other former Pentagon officials, Morton H. Halperin and Paul C. Warnke, rather than "government property."

"I did not regard the documents as my private property," Gelb told reporters. "The procedures that we (he, Halperin and Warnke) set up were additional and supplemental to the established procedures for handling classified material."

Much of Gelb's testimony today came only after U.S. District Court Judge W. Matt Byrne Jr. followed the unusual procedure of permitting defense attorney Charles R. Nesson to make him a defense witness. Many of Nesson's questions were blocked in the

form of cross-examination, because the subjects they dealt with had not been raised by the prosecution's original examination of Gelb.

The rules of evidence produced considerable confusion, and the most bewildered of all was Gelb, who had never been in a courtroom before his appearance in this case.

At one point, he turned to the judge and pleaded with a bemused look on his face and to the delight of the courtroom audience, "May I ask you, your honor, whose witness I am now?"

The question of how the Pentagon Papers came to be classified and whether they were properly marked "top secret-sensitive" has been a matter of controversy ever since the Nixon administration tried unsuccessfully to halt their publication by newspapers.

Gelb had never before been called by anyone to testify on that point.

He made it clear today, however, that he had never followed the elaborate procedures set out in Executive Order 10501 and other official directives, such as evaluating the "currency, necessity or accuracy" of the secret stamps on source documents.

On the contrary, Gelb said, the decision to classify the Pentagon Papers was made "very quickly" by him, Halperin and two military assistants to McNamara.

The word "sensitive" was added to "top secret" to indicate that "people should be less indiscreet than they usually are," he explained.